

**BOARD OF FORESTRY AND FIRE PROTECTION**

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**NOTICE OF DECISION****FOR AMENDMENTS TO THE FOREST PRACTICE RULES****WATERSHED PROTECTION EXTENSION, 2002****DESCRIPTION**

This *Notice of Decision* is pursuant to Title 14, California Code of Regulations section 1145 (14 CCR § 1145), and pertains to the amendments of Forest Practice Rules in Title 14 CCR affecting timber harvesting throughout the State.

The Board of Forestry and Fire Protection adopted amendments to the following rule sections:

§ 895.1	Definitions
§ 898(a)	Feasibility Alternatives
§§ 914.8 [934.8, 954.8]	Tractor Road Watercourse Crossing
§§ 916 [936, 956](e)	Intent of Watercourse and Lake Protection
§§ 916.2 [936.2, 956.2]	Protection of the beneficial Uses of Water and Riparian Functions
§§ 916.9 [936.9, 956.9]	Protection and Restoration in Watersheds with Threatened or Impaired Values
§§ 916.11 [936.11, 956.11]	Effectiveness and Implementation Monitoring
§§ 916.12 [936.12, 956.12]	Section 303(d) Listed Watersheds
§§ 923.3 [943.3, 963.3]	Watercourse Crossings
§§ 923.9 [943.9, 963.9]	Roads and Landings in Watersheds with Threatened or Impaired Values

The Z'berg-Nejedly Forest Practice Act of 1973 (ref. Division 4, Chapter 8 of the Public Resources Code) establishes the Legislature's concern throughout the State relating to the use, restoration, and protection of the forest resources. The Legislature further recognized that these forest resources provide watershed protection and fisheries maintenance. The Legislature declared that it is the policy of the State to encourage responsible forest management that considers the public's need for watershed protection and fisheries (ref. PRC § 4512). Furthermore, the Legislature stated its intent to create and maintain an effective and complete system of regulation for all timberlands. This system is to assure the productivity of timberlands and the goal of maximum sustained production of high quality timber products. It is also intended to give consideration to values related to watershed, wildlife, and fisheries (ref. PRC § 4513). Public Resources Code § 4551 gives the Board the authority to adopt such rules and regulations which will enable it to carry out its responsibilities to protect fish and water resources, including but not limited to streams, lakes, and estuaries.

In 1996, the State Fish and Game Commission listed Coho salmon south of San Francisco Bay as threatened under the State Endangered Species Act (ESA). Then in 1997, the National Marine Fisheries Service (NMFS) listed Coho salmon as threatened throughout its range in California under the Federal ESA, and Steelhead trout is currently proposed for listing as a threatened species.

Among many other sources of information considered by the Board in preparing the proposal for rule changes, a comprehensive review of the California Forest Practice Rules (FPRs), with regard to their adequacy for the protection of salmonid species, was been prepared for the Board (*Report of the Scientific Review Panel* [SRP report], 1999). Following an extensive review of the regulations, "The SRP concluded the FPRs, including their implementation (the 'THP process') do not ensure protection of anadromous salmonid populations" (*Report of the Scientific Review Panel*, 1999). Although this report was specific to the North Coast region, the Board believes that many of the recommendations made in the report can be effectively applied throughout the state to ensure the protection of the beneficial uses of water, including fisheries and other aquatic habitat.

The Board of Forestry and Fire Protection recognized the substantial concerns raised by other agencies additionally charged with the protection of the State's valuable watershed resources. The Board is also extremely aware of the need to protect listed species that may be impacted by practices that are regulated under the Board's purview, regardless of their location within the State. Furthermore, the Board recognized the potential for economic impacts to timberland owners and others that could be imposed from certain types of restrictions or requirements. Considering these factors, the Board adopted the following amendments to the Forest Practice Rules under this rulemaking package. However, in its motion to adopt the rule language proposed in this rulemaking record, the Board directed staff to indicate in the official record that the existing Forest Practice Rules have been recognized as successful in mitigating actions that have been commonly associated with impacts to the beneficial uses of water on a plan-specific basis. Data collected and analyzed by the Board's Monitoring Study Group indicate that in most cases the rules have been sufficient to prevent hillslope erosion features where rule compliance has not been compromised. However, the MSG report did not allow the group to draw conclusions about whether the existing rules are adequate to provide properly functioning habitat to aquatic species.

It should be noted that pursuant to PRC §§ 4512, 4513, 4551, 4551.5, 4552, and 4553; the Board is moving forward with action to further analyze the effectiveness of the rules to protect listed species and the beneficial uses of water. In order to clarify the Board's intent to address the protection of listed aquatic species and watercourses listed as impaired (pursuant to section 303(d) of the Clean Water Act) on a watershed basis, the Board chose to establish a specific period of time that the adopted rules would be effective. By imposing this limit on the effective period of the rule changes, the Board would be allowed to work with landowners, scientists and other parties during the balance of the current year to investigate whether an alternative regulatory approach can be developed. The Board intends to research whether an alternative approach can be developed that would use enhanced scientific analysis and the principals of watershed analysis to determine, among other things, the potential cumulative environmental impacts of proposed timber harvesting operations and associated activities. The Board hopes that an accumulation of knowledge applicable to specific watersheds and basins will be brought together by the various agencies and the public. This knowledge could then be used to tailor site-specific forest

practices to avoid any significant environmental impacts from individual timber harvesting plans, or cumulative impacts from various activities in a watershed that could combine with the effects of timber harvesting.

On May 9, 2002, after reviewing comments and correspondence from concerned citizens and other agencies, and considering testimony presented at a public hearing, the Board adopted changes to the Forest Practice Rules as proposed in its 45-Day Notice of Proposed Rulemaking published March 22, 2002. The rules adopted by the Board pertain primarily to the protection of fisheries habitat, with specific regulations for those watersheds where populations of listed anadromous salmonids are present or can be restored. The Board anticipates that these regulations will also enhance the protection provided to other beneficial uses of water throughout the State. The Board adopted extending existing interim rules until December 2003.

#### **14 CCR § 895.1      Definitions**

The California Forest Practice Rules commonly utilize technical terms in the regulation text that are generally recognized by federal and state agencies, as well as the forest products industry representatives. However, the Forest Practice Rules under section 895.1 (Definitions) do not include a comprehensive listing of applicable definitions for these terms. Of the eight (8) definitions adopted by the Board for addition or as amendments to the Forest Practice Rules, six (6) are not currently listed in the Forest Practice Rules, although the terms are utilized in other regulation changes adopted in this rulemaking action. Of the definitions changed in this rulemaking action by the Board, the definition of "saturated soil conditions" was changed to more adequately address important factors including increases in turbidity in Class III and Class IV watercourses and impacts to watershed resources from the use of heavy equipment for site preparation. The revised language also includes clear provisions that the applicable water quality requirements cannot be violated. The amendment of the definition is intended to correct problems in the existing definition in the following ways:

- 1) It expands protection to currently unprotected Class III and IV waters,
- 2) It prohibits turbidity increase that would violate applicable water quality standards,
- 3) It extends application to mechanical site preparation,
- 4) It reduces unnecessarily duplicative language,
- 5) It adds excessive rutting by yarding or site preparation equipment as evidence of saturated soil conditions.

Additionally, the definition of "watercourse or lake transition line" now adequately defines that term in regard to the application of the rule changes. The revised definition clearly differentiates between watercourses with confined channels, those with unconfined channels, and lakes; recognizing that different areas should be considered when establishing protection for each type of watercourse or lake. It further modifies the definition of an unconfined channel to change the standard to a tree age rather than a 20 year flood stage. This is more easily identified in the field.

The addition of the definitions of the terms "bankfull stage", "beneficial functions of riparian zone", "channel zone", "inner gorge" and "stable operating surface" is intended to provide common, enforceable definitions of terms being utilized in the adopted rule changes. The newly adopted definitions are intended to ensure that the public, as well as the reviewing agencies, understands the terms that are utilized in the changes to the regulations.

The addition of the definition of the term "watersheds with threatened or impaired values" is intended to provide a common, enforceable definition of a term that is being utilized in the rule changes. This new definition is intended to give special recognition to those watersheds where populations of anadromous salmonids that are listed as threatened, endangered, or candidate under the State or Federal ESAs are currently supported or could feasibly be restored. This is intended to clearly identify those watersheds where more stringent forest practices are required.

The Board proposes to extend the effective period of the changes to December 31, 2003.

#### **14 CCR § 898(a)      Feasibility Alternatives**

This change is presented under subsection (a). The Board proposes to extend the effective period of the changes to December 31, 2003.

#### **14 CCR §§ 914.8 [934.8, 954.8]      Tractor Road Watercourse Crossing**

This change is presented under subsection (g). The Board proposes to extend the effective period of the changes to December 31, 2003.

#### **14 CCR §§ 916 [936, 956]                      Intent of Watercourse and Lake Protection**

The Board proposes to clarify the Board's commitment and intent to move forward with further actions intended to address protection of listed aquatic species and watersheds defined as impaired by the Board on a watershed basis. The proposal also considers those waterbodies listed as impaired pursuant to section 303(d) of the Clean Water Act. This change is presented under subsection (e). The Board proposes to extend the effective period of the changes to December 31, 2003.

#### **14 CCR §§ 916.2 [936.2, 956.2]                      Protection of the Beneficial Uses of Water and Riparian Function**

The Board proposes to clarify the Board's commitment and intent to move forward with further actions intended to address protection of listed aquatic species and watersheds defined as impaired by the Board on a watershed basis. The proposal also considers those waterbodies listed as impaired pursuant to section 303(d) of the Clean Water Act. This change is presented under subsection (d). The Board proposes to extend the effective period of the changes to December 31, 2003.

#### **14 CCR §§ 916.9 [936.9, 956.9]                      Protection and Restoration in Watersheds with Threatened or Impaired Values**

The additional rule language under 14 CCR §§ 916.9 [936.9, 956.9], subsection (a) states resource protection goals for every timber operation in a watershed with threatened or impaired water-related values, and lists objectives for meeting those goals. They address those natural factors that are most critical for water-related values and are most likely to be affected by timber operations. Sediment is addressed by the first two objectives. The first four objectives could apply to any land use; they express a policy that timber operations result in no adverse changes in sediment loading, bank and channel stability, migratory passage, and stream flow. The fifth and sixth objectives address protection of beneficial

functions of riparian zone vegetation and focused on the critical near-stream areas. They address increased thermal loading and decreased stream recruitment of LWD. The final objective is intended to address problems associated with changes in peak flow or flood frequency.

The additional rule language under 14 CCR §§ 916.9 [936.9, 956.9], subsection (b) recognizes that the listing of an anadromous fish species is the cumulative result of many events over time and space. The new regulations are intended to bring about recognition of pre-plan adverse cumulative watershed effects and of the need to take responsibility for reducing them.

The additional rule language under 14 CCR §§ 916.9 [936.9, 956.9], subsection (c) recognizes that resource protection or restoration are significant management objectives in near-stream/riparian areas along Class I and II waters. Consistent with other aquatic conservation strategies, this provision creates an additional management buffer outside of the inner Watercourse and Lake Protection Zone (WLPZ) along Class I watercourses. Timber management and operations would be lightest and most protective within the WLPZ, somewhat greater and less restricted in the outer zone, and least restricted elsewhere.

The additional rule language under 14 CCR §§ 916.9 [936.9, 956.9], subsection (d) is intended to allow the use of measures to offset sediment or thermal loading or other cumulative watershed effects that may exist throughout a planning watershed where they are fully described and the parties responsible for implementation are identified in the plan. Those measures that most directly mitigate the timber operation's impacts are given preference.

The additional rule language under 14 CCR §§ 916.9 [936.9, 956.9], subsection (e) is intended to prevent direct impacts to watercourses by substantially limiting harvest within the channel zone. Operations will be limited to those instances where needed to improve salmonid habitat, for the construction or reconstruction of approved watercourse crossings, for the protection of public health and safety, or to allow for full suspension cable yarding when necessary. A modification is included that permits timber operations within the channel zone of Class III waters where protection is not needed for salmonids.

The additional rule language under 14 CCR §§ 916.9 [936.9, 956.9], subsection (f) expands the minimum WLPZ width for Class I waters from 75 feet to 150 feet. It was further modified to provide for changes in the WLPZ in the San Joaquin or Sacramento river drainage which differ from coastal watercourses.

The additional rule language under 14 CCR §§ 916.9 [936.9, 956.9], subsection (g) is intended to provide canopy retention standards for Class I waters that are consistent with CDF's "Coho Considerations" document. . It was further modified to provide for changes in the WLPZ in the San Joaquin or Sacramento river drainage which differ from coastal watercourses.

The additional rule language under 14 CCR §§ 916.9 [936.9, 956.9], subsection (h)(1) is intended to provide informational requirements to ensure that the timber harvesting and yarding within a Class I WLPZ will conform with the goals in subsection (a).

The additional rule language under 14 CCR §§ 916.9 [936.9, 956.9], subsection (h)(2) is intended to provide information regarding existing permanent crossings of Class I waters, including information on how they will be used or maintained during timber operations to minimize risks to water-related values (especially fish passage).

The additional rule language under 14 CCR §§ 916.9 [936.9, 956.9], subsection (h)(3) is intended to provide full disclosure of specifications for any new or reconstructed Class I road crossings needed to protect water-related values.

The additional rule language under 14 CCR §§ 916.9 [936.9, 956.9], subsection (i) is intended to ensure adequate recruitment of the Large Woody Debris (LWD). Subsection (i) is modified to consider the intent of the rule to retain 10 conifers for 330 feet of stream regardless of ownership.

The additional rule language under 14 CCR §§ 916.9 [936.9, 956.9], subsection (j) is intended to prevent operations within an inner gorge that could result in mass failure of the slopes, subsequently contributing significant amounts of soil and debris into a watercourse. This subsection was modified to apply to Class I and II watercourses.

The additional rule language under 14 CCR §§ 916.9 [936.9, 956.9], subsection (k) is intended to ensure that all relevant information is evaluated in developing appropriate protection measures for winter period operations, and provides minimum operating standards for winter period operations that are anticipated to prevent significant erosion and sedimentation.

The additional rule language under 14 CCR §§ 916.9 [936.9, 956.9], subsection (l) is intended to provide restrictions on the construction, reconstruction, or use of roads or landings so that soil or other material will not be transported to a watercourse or lake as a result of these types of operations during periods when the soils are saturated.

The additional rule language under 14 CCR §§ 916.9 [936.9, 956.9], subsection (m) is intended to ensure that tractor road construction and use cannot be advanced to the point that the installation of needed drainage facilities cannot be completed prior to the start of rains capable of transporting sediment to watercourses.

The additional rule language under 14 CCR §§ 916.9 [936.9, 956.9], subsection (n) is intended to provide soil stabilization treatment standards that are needed to prevent accelerated soil erosion or movement within a WLPZ, Equipment Exclusion Zone (EEZ), or Equipment Limitation Zone (ELZ).

- a) The additional rule language under 14 CCR §§ 916.9 [936.9, 956.9], subsection (n)(1) requires that all WLPZ/EEZ/ELZ soil stabilization treatments must be described in the plan so their adequacy can be ensured during plan review. Time limits for doing the treatments are established to ensure that soil disturbance does not get so far ahead of treatment that treatment cannot be completed prior to the start of heavy rains.
- b) The additional rule language under 14 CCR §§ 916.9 [936.9, 956.9], subsection (n)(2) requires the treatment of the traveled surface of roads to prevent generation of sediment or concentration of surface runoff during periods of use.

- c) The additional rule language under 14 CCR §§ 916.9 [936.9, 956.9], subsection (n)(3) requires the treatment of other specific disturbed areas to prevent the occurrence of a discharge of sediment or concentrated runoff into waters. Coverage of at least 90% is needed to ensure successful treatment.
- d) The additional rule language under 14 CCR §§ 916.9 [936.9, 956.9], subsection (n)(4) requires the treatment of an undisturbed area where its natural ability to filter sediment, minimize soil erosion, and stabilize banks of watercourses and lakes and otherwise buffer waters from the effects of a timber operation is low.

The additional rule language under 14 CCR §§ 916.9 [936.9, 956.9], subsection (o) requires that the plan preparer assess the work needed to reduce sediment loading from active erosion sites in the logging area and address the remediation as part of the plan so the adequacy of the work and plan can be evaluated. The information is to be provided in the plan, specifying the work to be done.

The additional rule language under 14 CCR §§ 916.9 [936.9, 956.9], subsection (p) is intended to reduce sediment impacts associated with erosion originating from roads and landings through a required three year erosion control maintenance period on specified roads and landings.

The additional rule language under 14 CCR §§ 916.9 [936.9, 956.9], subsection (q) is intended to tighten the restrictions on site preparation in watercourses. It further requires that burning prescriptions be designed to prevent loss of LWD, vegetation, and duff and that the measures to accomplish this be submitted in the plan for evaluation.

The additional rule language under 14 CCR §§ 916.9 [936.9, 956.9], subsection (r) is intended to prevent adverse effects on water-related values that can occur as a result of water drafting.

The additional rule language under 14 CCR §§ 916.9 [936.9, 956.9], subsection (s) excludes operations conducted under emergency notices and exemptions, which are not subject to interagency review, from the zones established to protect water-related values. Some specific exceptions are allowed under the new regulations. Experience in application of the interim rules showed that operations would not impact salmonids where crossings were on dry Class III watercourses with DFG concurrence.

The additional rule language under 14 CCR §§ 916.9 [936.9, 956.9], subsection (t) excludes salvage logging within a WLPZ except where such logging is fully described and subject to agency evaluation through agency review of a plan, a Habitat Conservation Plan (HCP), or Sustained Yield Plan (SYP).

The additional rule language under 14 CCR §§ 916.9 [936.9, 956.9], subsection (u) clarifies that nonstandard practices, as approved by CDF and subsequently implemented, shall provide a level of protection needed to meet the goals stated in 14 CCR §§ 916.9 [936.9, 956.9], subsection (a).

The additional rule language under 14 CCR §§ 916.9 [936.9, 956.9], subsection (v) is intended to allow for the use of alternatives provided the alternatives meet the goals specified under this section.

Consistent with other rule sections, the additional rule language under 14 CCR §§ 916.9 [936.9, 956.9], subsection (w) provides for the use of alternative practices where needed to achieve the goals stated under 14 CCR §§ 916.9 [936.9, 956.9], subsection (a).

The additional rule language under 14 CCR §§ 916.9 [936.9, 956.9], subsection (x) clarifies that the proposed changes under this section do not apply to plans subject to an incidental take permit based upon and approved Habitat Conservation Plan that addresses anadromous salmonid protection.

The Board proposes to extend the effective period of the changes to December 31, 2003.

**14 CCR §§ 916.11 [936.11, 956.11]      Effectiveness and Implementation Monitoring**

Where timber operations are proposed adjacent to a watercourse or lake, the project proponents may be required to demonstrate that such operations have taken place without causing additional threat or damage to the beneficial uses of water. This shall be accomplished through the use of post-harvest effectiveness monitoring. The additional rule language under 14 CCR §§ 916.11 [936.11, 956.11] is intended to require such an evaluation if there is evidence in the record of potential land failures, accelerated rate of road construction or harvesting within a watershed, concentration or intensity of harvesting activity near watercourses, and potential for accelerated windthrow. The design and implementation of the evaluation shall be done in consultation with the Director, the RWQCB or DFG, and THP submitter.

The Board proposes to extend the effective period of the changes to December 31, 2003.

**14 CCR §§ 916.12 [936.12, 956.12]      Section 303(d) Listed Watersheds**

The changes adopted under 14 CCR §§ 916.12 [936.12, 956.12] are intended to apply to any planning watershed in which timber operations could contribute to the pollutants or stressors which have been identified as limiting water quality in a water body listed pursuant to 303(d) Federal Clean Water Act. Under these new sections, the Department shall, in collaboration with the appropriate RWQCB and SWRCB, prioritize watersheds in which the following will be done: 1) conduct or participate in any further assessment or analysis of the watershed that may be needed, 2) participate in the development of Total Maximum Daily Load (TMDL) problem assessment, source assessment, or load allocations related to timber operations, and 3) if existing regulations are deemed not to be sufficient, develop recommendations for watershed-specific silvicultural implementation, enforcement and monitoring practices to be applied by the Department.

The Board proposes to extend the effective period of the changes to December 31, 2003.

**14 CCR §§ 923.3 [943.3, 963.3]      Watercourse Crossings**

The additional rule language under 14 CCR §§ 923.3 [943.3, 963.3], subsection (c) requires that culverts allow all life stages of fish present to pass. It must disclose the specifications of those culverts.



The additional rule language under 14 CCR §§ 923.3 [943.3, 963.3], subsection (d) improves the English clarity.

The additional rule language under 14 CCR §§ 923.3 [943.3, 963.3], subsection (e) requires that culverts that are constructed or reconstructed shall accommodate the estimated 100-year flood flow.

The additional rule language under 14 CCR §§ 923.3 [943.3, 963.3], subsection (f) requires that permanent watercourse crossings and associated fills and approaches shall be constructed or maintained to prevent diversion of stream overflow down the road and to minimize fill erosion should the drainage structure become obstructed.

The additional rule language under 14 CCR §§ 923.3 [943.3, 963.3], subsection (g) requires that permanent culverts installed within class I watercourses shall allow upstream and downstream passage of fish or listed aquatic species during any life stage and for the natural movement of bedload.

The Board proposes to extend the effective period of the changes to December 31, 2003.

#### **14 CCR §§ 923.9 [943.9, 963.9]**

#### **Roads and Landings in Watersheds with Threatened or Impaired Values**

The additional rule language under 14 CCR §§ 923.9 [943.9, 963.9], subsection (a) requires the disclosure of the locations and specifications for road and landing abandonment or other measures to reduce the effects of long-term site occupancy of roads within a watershed.

The additional rule language under 14 CCR §§ 923.9 [943.9, 963.9], subsection (b) establishes appropriate standards for the width of logging roads, and includes appropriate specifications for road drainage in watersheds with threatened or impaired values.

The additional rule language under 14 CCR §§ 923.9 [943.9, 963.9], subsection (c) addresses road construction on slopes greater than 50%. The adopted language is intended to provide information on the limiting factors associated with road construction, and on road designs, which will help to determine if the specified provisions for road construction are adequate to reduce the risk to water-related values. The rule is also intended to provide specifications related to road construction and the deposition of spoils, as well as requirements for recountouring of slopes if fills are removed.

The additional rule language under 4 CCR §§ 923.9 [943.9, 963.9], subsection (d) is intended to ensure that roads with excessive grades will have adequate erosion control measures included in the plan.

The additional rule language under 14 CCR §§ 923.9 [943.9, 963.9], subsection (e) is intended to ensure that the proposed measures regarding the location, design, placement, and removal of drainage structures and erosion control features, and the rationale used to develop them are included in the plan and can be evaluated. The rule language is also intended to establish specific minimum requirements for drainage

structures and erosion control features in watersheds with threatened or impaired values.

The additional rule language under 14 CCR §§ 923.9 [943.9, 963.9], subsection (f) clarifies that the proposed changes under this section do not apply to plans subject to an incidental take permit based upon and approved Habitat Conservation Plan that addresses anadromous salmonid protection.

The Board proposes to extend the effective period of the changes to December 31, 2003.

## **ALTERNATIVES**

The Board has considered the following alternatives:

### **1. Allow the existing regulations to expire.**

This would greatly reduce the protection for listed anadromous fish species. Timber operations and the THP process would continue under the previous regulations, which may not ensure the protection of anadromous salmonid populations. This would not address the concerns raised by other agencies and the public regarding the protection of watershed resources and listed aquatic species. The Board chose not to adopt this alternative.

### **2. Adopt the interim regulations extension through December 31, 2001 without any modifications except the expiration date.**

This alternative would maintain protection for salmonids and the beneficial uses of water which includes changes that resulted from the experience gained through application of the Interim Rules for a one year period. .

## **SUMMARY OF POTENTIAL IMPACTS**

The Board has not identified any adverse environmental effects from the proposed action.

## **FINDINGS**

The Board finds that there are no adverse environmental effects from the proposed action for the following reasons:

The intent of the adopted amendments to the rules is to reduce the potential for significant adverse impacts to resources of concern, especially habitat necessary to support anadromous salmonid species. The Board believes that the adopted changes to the regulations provide a higher level of protection to watershed resources than that currently provided under the existing rules; especially to habitat associated with anadromous salmonid species. There will be no reduction in the current level of environmental protection provided by the rules.

To ensure that operations conducted within a watershed where listed anadromous salmonids are currently present or can be restored do not result in adverse environmental effects, the Board adopted more restrictive regulations. Among the changes adopted by the Board, the Board redefined the watercourse or lake transition line so that the area

determined to be most critical to the protection of watershed resources would be determined based upon channel characteristics and with consideration given to the 20 year flood stage. The Board also adopted rule changes that established higher standards for operations within the watercourse and lake protection zones (WLPZ) for watersheds considered to have threatened or impaired values. These include, but are not limited to, restrictions on the level of harvesting in the WLPZ and in adjacent inner gorges of Class I watercourses, specific standards for retention of large woody debris and hardwoods, higher standards for the construction of roads and landings, and watercourse crossings, more restrictive site preparation standards, and clear guidance pertaining to water drafting operations.

As part of the rulemaking process, the proposed rules were thoroughly reviewed by the public and other agencies (including the Regional Water Quality Control Boards, the State Water Resources Control Board, the Department of Fish and Game, and the Division of Mines and Geology) prior to their adoption pursuant to the Administrative Procedures Act (APA), in conformance with CEQA pursuant to PRC § 21080.5 and 14 CCR § 15251(e), and in conformance with 14 CCR § 1144.

## **FINDINGS ON COSTS**

The Board finds there are no additional costs to any state agency, any state mandated costs to local agencies of government or school districts that require reimbursement under Part 7, Div. 4 Sec. 17500 GC because of any duties, obligations or responsibilities imposed on state or local or agencies or school districts. This action can be accomplished with no significant additional net cost, or where such costs exist, they are entered into voluntarily.

This order does not create any savings or additional costs of administration for any agency of the United States Government over and above the program appropriations made by Congress.

### **A. Costs to State Agencies**

The Board has determined that this action will not have a net increase in costs to state agencies that have been identified.

### **B. Local Agencies**

The Board has determined that this action will not have a net increase in costs to local government, school districts or other local agencies.

### **C. Costs to Affected Persons**

The rule proposal will affect small and large timberland owners by increasing the cost for timber harvesting. These extra costs are associated with planning and operations, and may include but are not limited to: additional planning, construction and maintenance costs for roads and watercourse crossings, additional cost of professional consultations, and costs associated with a reduction in long term sustained yield (LTSY).

Although the Board staff has identified the potential for increased costs associated with the changes to the Rules, the Board staff also identified the potential for increased benefits.

Some of the benefits derived from the change in the Rules could be contributed to the ability of timberland owners to continue to harvest timber without the restrictions that could result from a determination of "take" by the National Marine Fisheries Service. Benefits will also be derived from potentially enhanced beneficial uses of water for drinking and recreational uses.

It should be noted that the changes adopted by the Board are effective for a period of twelve (12) months only. Considering this limited period of application and the increased benefits derived from the changes, the Board staff does not anticipate that the increased costs will result in a significant adverse economic impact on affected persons.

#### D. Costs to Businesses and Small Businesses

The rule proposal will affect businesses and small business related to the timber industry by increasing the cost for timber harvesting. These extra costs are associated with planning and operations, and may include but are not limited to: additional planning, construction and maintenance costs for roads and watercourse crossings, additional cost of professional consultations, and costs associated with a reduction in long term sustained yield (LTSY).

Although the Board staff has identified the potential for increased costs associated with the changes to the Rules, the Board staff also identified the potential for increased benefits to the timber industry and other sectors of business in the State. Some of the benefits derived from the change in the Rules could be contributed to both market and non-market values related to increases in anadromous fish populations, reductions in the cost of flood control, and the ability of land managers to continue to harvest timber without the restrictions that could result from a determination of "take" by the National Marine Fisheries Service. Benefits will also be derived from potentially enhanced beneficial uses of water for drinking and other recreational uses besides those related to sport fishing.

It should be noted that the changes adopted by the Board are effective for a period of twelve (12) months only. Considering this limited period of application and the increased benefits derived from the changes, the Board staff does not anticipate that the increased costs will result in a significant adverse economic impact on businesses.

#### E. Competitiveness Considerations

The Board has determined that this action will not have a significant impact on the ability of California businesses to compete with businesses in other states.

#### F. Creation or Elimination of Jobs or Businesses

Adoption of these regulations is not likely to create or eliminate jobs within California. The changes adopted by the Board are effective for a period of twelve (12) months only. Considering this limited period of application and the ability for most landowners to operate outside the affected areas, the Board staff does not anticipate that the proposed changes will eliminate or create jobs within California.

#### G. Impacts on Housing

The Board has determined that this action will not have a significant affect housing costs. Considering the limited period of application as cited above, there are no significant costs associated with the rule language change.

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